

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Joshua Otey, being duly sworn, declare and state as follows:

Introduction and Agent Background

1. I make this affidavit in support of a Criminal Complaint charging that between on or about March 8, 2023 and on or about April 12, 2023, in the District of Vermont and elsewhere, Nicholas SHELTON violated Title 18, United States Code, Section 2422(b) (use of a facility or means of interstate commerce to knowingly persuade, coerce, or entice, and attempt to knowingly persuade, coerce, or entice, a minor to engage in any sexual activity for which any person can be charged with a criminal offense).

2. I have served as a Homeland Security Investigations (HSI) Special Agent (SA) since March 2020. As such, I am an investigative or law enforcement officer of the United States within the meaning of 18 U.S.C. § 2510(7), and I am empowered by law to conduct investigations of and to make arrests for offenses enumerated in 18 U.S.C. § 2516. I am presently assigned to the HSI office in Burlington, Vermont, whose geographic jurisdiction encompasses the District of Vermont. I have received extensive training provided by the Federal Law Enforcement Training Center and HSI in the investigation and enforcement of laws of the United States. I have participated in numerous criminal investigations regarding violations of federal narcotics, human trafficking, firearms, child exploitation, and financial laws.

3. The statements contained in this affidavit are based on my training and experience, information provided to me by other members of local, state, and federal law enforcement, as well as my own investigation, to include personal observations, documents, and other investigative materials which I have reviewed. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact

known to me concerning this investigation. Unless specifically indicated otherwise, all conversations and statements described in this affidavit are related in substance and in part only.

Probable Cause

4. I have spoken with Detective Craig Winkler, Essex Police Department (EPD), regarding the Essex Police Department investigation of Nicholas SHELTON. I have also reviewed Det. Winkler's Affidavit of Probable Cause for Arrest regarding the investigation.

Based thereon, I learned the following:

a. SHELTON was born in 1998 and is 24 years old. He is a resident of Hope, Arkansas.

b. On April 9, 2023, EPD received a report from the parents of a missing 15-year-old girl (MV1) that their daughter had run away on April 7, 2023. MV1's parents told EPD that MV1 had recently started speaking with a 24-year-old male from Arkansas (SHELTON). The parents also said that they encountered SHELTON approximately one week earlier when they discovered him sleeping in their garage. MV1's parents told SHELTON to leave the residence and to stay away from their daughter (MV1). As part of the missing juvenile report, Essex Police Officials issued missing person broadcasts and entered MV1 into National Crime Information Center (NCIC) as a missing person.

c. On April 12, 2023, at approximately 7:05 pm, MV1's parents told EPD that they had discovered MV1 and SHELTON together in a wooded area at Sand Hill Park in Essex, Vermont. Detective Winkler responded to the scene and observed that MV1 and SHELTON had established an encampment in a wooded area of the park, approximately 100 yards from a tennis court.

d. Detective Winkler spoke with MV1 at the scene. During this conversation, MV1 disclosed the following:

1. She met SHELTON on either Snapchat or Instagram and they started talking.

a. Based on my training and experience, I know that Snapchat is a multimedia messaging app developed by Snap Inc., originally Snapchat Inc., which operates with Internet connectivity. One of the principal features of Snapchat is that pictures and messages are usually only available for a short time before they become inaccessible to their recipients. The app has evolved from originally focusing on person-to-person photo sharing to presently featuring users' "Stories" of 24 hours of chronological content, along with "Discover," letting brands show ad-supported short-form content. It also allows users to keep photos in the "my eyes only" section, which lets them keep their photos in a password-protected space. It has also reportedly incorporated limited use of end-to-end encryption, with plans to broaden its use in the future.

b. Based on my training and experience, I also know that the Internet is a global network of computers and other electronic devices that communicate with each other. Due to the structure of the Internet, connections between devices on the Internet often cross state and international borders, even when the devices communicating with each other are in the same state. The Internet is a means or facility of interstate and foreign commerce.

2. MV1 knew that SHELTON was 24 and she was only 15, but said that she was really hoping to be 16 before anyone found out they were friends because she did not want SHELTON to be in trouble. MV1 said that when she was missing, SHELTON saw her

in Burlington and told her to go home. MV1 did not want to go home and said home was not a good environment for her. SHELTON told her to get her things and he would help set her up in the woods with separate tarps so they weren't together, "so nothing looked sexual."

3. MV1 denied having engaged in any sexual relations with SHELTON. MV1 initially denied having kissed SHELTON, but after being confronted with a photograph posted to social media of MV1 and SHELTON kissing, MV1 admitted to having kissed SHELTON. MV1 said she did not like to admit it, but they had kissed. MV1 denied that SHELTON had ever forced himself on her. MV1 described SHELTON as an amazing person.

e. EPD Corporal Ryon Sorrell spoke with SHELTON at the scene as well. During this conversation, SHELTON disclosed the following:

1. SHELTON came to Vermont "a week ago" because he likes snow and he wanted a new start. SHELTON denied coming to Vermont to see MV1.

2. SHELTON admitted to having kissed MV1. SHELTON said that MV1 sent him a nude photograph of herself, which he had on his phone. He denied engaging in any other sexual activity with MV1.

3. SHELTON acknowledged that MV1's mother sent him a text message instructing him to stay away from MV1.

f. EPD officers arrested SHELTON. At the EPD station, SHELTON waived his *Miranda* rights orally and in writing. During this interview, he disclosed the following:

1. SHELTON came up to Vermont on March 25, 2023, for a "fresh start." SHELTON stayed at the ANEW Champlain Inn the whole time.

2. SHELTON said that he did not know anyone in Vermont when he arrived in Vermont. SHELTON said he received an unsolicited friend request from MV1

through social media after he arrived. SHELTON said he accepted the friend request from MV1 because he did not know anyone here. He communicated with MV1 online before ultimately meeting with her in person at the transportation center. SHELTON said he hung out with MV1 for thirty (30) minutes when they met at the transportation center. SHELTON said that his relationship with MV1 began as a friendship and that he and MV1 have kissed.

3. SHELTON did not remember when MV1 sent the nude photograph of herself to him. SHELTON was asked if the photograph was completely nude or topless or bottomless. SHELTON indicated the photograph depicted "down there." SHELTON did not remember if the photograph was sent to him via text message or another social media platform. SHELTON said he deleted the photograph, did not send anything back to her, and stopped talking to her for a couple days.

4. SHELTON recalled being confronted by MV1's parents when they found him in their garage.

5. After being pressed on his purpose in coming to Vermont and whether he came to Vermont to see MV1, SHELTON indicated that it was not exactly like that. SHELTON admitted to having started talking with MV1 on his way up to Vermont.

6. SHELTON provided consent to search his cellular phone (the Subject Device). SHELTON also provided the password to access the Subject Device.

g. The Subject Device was delivered to Detective Brandon Gallant of the Vermont Attorney General's Office and Vermont Internet Crimes Against Children (ICAC) Task Force. Detective Gallant performed an extraction of the Subject Device. I have reviewed the extraction and observed the following:

1. In the “contacts” portion was an entry titled “Wife.” This entry lists the telephone number known to be MV1’s telephone number.

2. Text message communications between “Wife” and SHELTON began on March 8, 2023, and continued through March 31, 2023. There are three-hundred-seventy-two (372) text message communications between SHELTON and MV1. The communications begin on March 8, 2023 with SHELTON messaging MV1 “Nm you.”¹ Based on my training and experience, I recognize this message is indicative of a response in a conversation and therefore believe there is more content to the conversation that has been deleted or had occurred on another platform prior to this visible text message.

3. The communication includes content consistent with an established relationship that is possibly sexual. For example, on or about March 22, 2023, the following exchange occurred:

MV1: “Well I want to know what you want to do when we are alone in my room”

MV1: “I want you to tell me”

SHELTON: “I will kiss you baby”

SHELTON: “Baby I really wanna have family with you babe”

4. The communication includes sexually explicit content. For example, on or about March 28, 2023, the following exchange occurred:

SHELTON: “You mean everything to me baby”

MV1: “You mean so much to mee”

SHELTON: “Did you really mean what you said last night”

MV1: “Which thing I said a lot”

SHELTON: “About you wanna have kids”

MV1: “Yes”

SHELTON: “You think I will be a great dad”

MV1: “I know so”

SHELTON: “Thank you baby so much”

MV1: “1 you are welcome 2 what did I do”

SHELTON: “Wym² what you do?”

¹ Based on my training and experience, I recognize “Nm” to be an abbreviation for “Not much.”

² Based on my training and experience, I recognize “Wym” to be an abbreviation for “What you mean.”

MV1: "Why did you say thank you"
SHELTON: "For loving me and caring about me"
MV1: "Always"
SHELTON: "I really wanna marry you"
MV1: "Never will stop"
MV1: "Same I love you"
SHELTON: "I will never stop loving you"

* * *

MV1: "What we did last night"
MV1: "I really liked it"
SHELTON: "Putting your hand down there"
MV1: "Yeah and doing the thing with the tip"
SHELTON: "Wym"
MV1: "With my finger on the tip of cock"
SHELTON: "To me"
MV1: "Yeah"
SHELTON: "I hope so"
MV1: "I just kinda hoped you liked it enough for me to do it again"
SHELTON: "I do"

3. Snapchat social media messages are also visible on the extraction between participants bye_em31 "Wife" and Nicholas_s22689 "Nicholas Shelton" from March 25, 2023, through April 12, 2023. Images were sent from the user "Wife" to SHELTON. I have seen photographs of MV1, and I recognize MV1 to be depicted in these photographs. Additionally, conversation between the subjects referenced "Sandhill Park", which is the location where MV1 and SHELTON were ultimately found together. There is a total of four-hundred-ninety-one (491) messages on the device between SHELTON and MV1 in the Snapchat platform. The communications contain sexually explicit content, including the following exchange that took place on or about April 7, 2023:

SHELTON: "I love you too sexy"
MV1: "Oh you will fuck me"
SHELTON: "Yes I will baby I'll fuck you hard baby"
MV1: "I love you"
SHELTON: "I love you too baby"
MV1: "I am so excited to see you"

SHELTON: "Sameeeee"

SHELTON: "You sure I'm the only one for you"

* * *

SHELTON: "I'm sorry but if you can't be here for me when I really need you then we don't need to be together"

MV1: "Baby"

5. Call log data is also contained in the extraction report. There were approximately seventy-eight (78) total voice calls between the telephone number of MV1 and SHELTON'S telephone number between March 8, 2023, and March 25, 2023. There are approximately eleven (11) voice calls on the Snapchat platform between the user "bye_em31 Wife" (MV1) and SHELTON between April 7, 2023, and April 12, 2023.

6. I reviewed publicly available social media accounts associated with MV1 and SHELTON. During my review, I observed photographs of MV1 and SHELTON posing together and in one photograph, I observed MV1 and SHELTON engaged in a kiss. I also saw publicly available photographs of SHELTON appear on MV1's social media accounts as early as March 13, 2023. Publicly available photographs of MV1 and SHELTON together in person are first observed posted to social media on March 30, 2023.

7. On April 21, 2023, EPD Corporal Chris May and I spoke with MV1 and her parents at their residence. During this meeting, the following occurred:

a. We took possession of MV1's cell phone. MV1 and her parents gave consent for law enforcement to search it.

b. MV1 asked to speak with Corporal May and me briefly. MV1 disclosed the following:

1. MVI engaged in sexual activity with SHELTON and would be willing to provide a full account in a forensic interview setting.

2. MV1 met SHELTON on an Internet-based application in or about March 2023, but could not remember which specific application.

3. SHELTON came to Vermont from Texas. SHELTON expressed concern to her before coming to Vermont. SHELTON was afraid of being labeled as a “pedophile” and was concerned that he might be met by law enforcement upon his arrival instead of meeting MV1. MV1 had to assure him that she was not going to report him to law enforcement. In MV1’s conversations with SHELTON, he told her that he had a rough past and childhood, and that he had served time in prison.

8. Based on my training and experience, and my prior experience as a law enforcement officer with the State of Vermont, I know that the sexual activity described in the communications between SHELTON and MV1 would constitute violations of Lewd and Lascivious Conduct, pursuant to Title 13, Vermont Statutes Annotated, Section 2601, and Sexual Assault, pursuant to Title 13, Vermont Statutes Annotated, Section 3252.

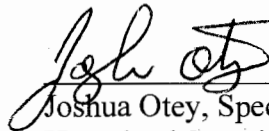
9. A criminal history records query of SHELTON revealed that he has previously been convicted of offenses in the State of Arkansas and the State of Texas. SHELTON has convictions that include Aggravated Assault on family/household member, Domestic Battering 3rd degree, violating a Protection Order, and Driving while intoxicated. SHELTON’s also has convictions for failures to appear.

Conclusion

10. Based on the foregoing, I believe that there is probable cause to believe that between on or about March 8, 2023, and on or about April 12, 2023, in the District of Vermont and elsewhere, Nicholas SHELTON violated Title 18, United States Code, Section 2422(b), use of a facility or means of interstate commerce to knowingly persuade, coerce, or entice, and attempt to knowingly persuade, coerce, or entice, a minor to engage in any sexual activity for which any person can be charged with a criminal offense.

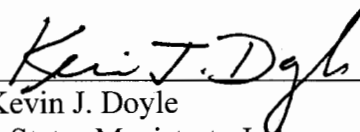
Dated at Burlington, in the District of Vermont, this 26th day of April 2023.

Respectfully submitted,



Joshua Otey, Special Agent
Homeland Security Investigations

Sworn to and subscribed before me this 26th day of April 2023.



Hon. Kevin J. Doyle
United States Magistrate Judge
District of Vermont